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March 4, 2011

VIA FACSIMILE

Hon. John G. Koeltl  
United States District Court for the Southern District of New York  
500 Pearl Street  
New York, New York 10007

Re: Atlantis Rehabilitation and Residential Health Care Facility v. Paterson (10-cv-3979)

Dear Judge Koeltl:

Pursuant to this Court's January 4, 2011 memorandum endorsed, plaintiffs submit this letter to report on the status of the above-entitled action. Under the terms of the joint application of the parties, so-ordered on June 30, 2010, three things had to occur before plaintiffs could move for a preliminary injunction and trigger defendants' time to respond to the Complaint – (a) approval by the Center for Medicare and Medicaid Services; (b) the adoption of a budget by the State of New York for FY2010-11; and (c) approval of reimbursement rates by the Director of the Budget of the State of New York. On January 4, 2011 – the date of our last report to the Court – we stated that the only one of these events which has occurred was that the State of New York had adopted a budget for FY2010-11. To date, neither of the other two events (approval by the Center for Medicare and Medicaid Services and by the Director of the Budget) has occurred.

There has been one other development since our January 4, 2011 report. The Medicaid Redesign Team convened by Governor Cuomo has now submitted its report. The report may have far-reaching consequences for the Medicaid rates payable to skilled nursing facilities. We anticipate that legislation will be introduced based on the report which may alter or affect the rates challenged in the complaint herein. Accordingly, we submit that it makes sense to await developments in the State's FY2011-2012 budget legislation (constitutionally required by March 31, 2011) before proceeding further with this case. We will address the effect of that legislation if and when it is enacted.

Respectfully submitted,

*Fran M. Jacobs*

Fran M. Jacobs

cc: Scott J. Spiegelman, Assistant Attorney General (by e-mail)

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*Parties should provide a status report no later than 5/27/11. So ordered. 3/4/11 fmjacobs/v.s.p.s.*